

1 COOLEY LLP  
2 MICHAEL A. ATTANASIO (151529)  
(mattanasio@cooley.com)  
3 4401 Eastgate Mall  
San Diego, CA 92121  
4 Telephone: (858) 550-6000  
Facsimile: (858) 550-6420

5 BEATRIZ MEJIA (190948)  
(mejiab@cooley.com)  
6 DAVID HOUSKA (295918)  
(dhouska@cooley.com)  
7 MAX SLADEK DE LA CAL (324961)  
(msladekdelacal@cooley.com)  
8 101 California Street, 5<sup>th</sup> Floor  
San Francisco, CA 94111  
9 Telephone: (415) 693-2000  
Facsimile: (415) 693-2222

10 Attorneys for Defendants  
11 SEAVIEW INSURANCE COMPANY  
and TWO JINN, INC.

12 [Additional Defendants and Counsel Listed on Signature Pages]

14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **OAKLAND DIVISION**

18 IN RE CALIFORNIA BAIL BOND  
19 ANTITRUST LITIGATION  
20  
21 THIS DOCUMENT RELATES TO:  
22 ALL ACTIONS

Master Docket No. 19-cv-00717-JST

CLASS ACTION

**DEFENDANTS' POSITION ON DISCOVERY  
PENDING RULING ON MOTION TO DISMISS**

Judge: Hon. Jon S. Tigar

1           In response to the Court’s directive at the August 26, 2020 motion hearing and subsequent  
2 Order (Dkt. 132), the Parties met and conferred regarding their respective suggestions on discovery in  
3 this matter. Because of the timing and some differences in their proposed approaches, the Parties  
4 agreed it would be best if they submitted their respective proposals separately and concurrently. This  
5 is Defendants’ proposal:

6           1. Discovery should be *partially* stayed while the current motion to dismiss is pending. It  
7 will be extremely burdensome to proceed with unrestricted discovery, which is not justified when  
8 many Defendants might be dismissed from the case for the second time. *See Bell Atl. Corp. v.*  
9 *Twombly*, 550 U.S. 544, 554, 560 n.6 (2007) (discovery where conspiracy claimed over seven years  
10 would be “a sprawling, costly, and hugely time consuming undertaking”). However, the Parties have  
11 already begun meeting and conferring on a number of discovery issues, and while discovery should  
12 otherwise be stayed, Defendants agree that these efforts can continue to move forward. Specifically:

- 13           a. The Parties will conduct the Rule 26(f) conferences they have already  
14           scheduled, both on “global” issues applicable to all Defendants (set for  
15           September 2, 2020) and thereafter for individual defendants (by September 4,  
16           2020), subject to the provisions stated in this document. The Parties will  
17           attempt to reach agreement on a stipulated protective order and an agreement  
18           on ESI.
- 19           b. The Parties will serve their Rule 26 initial disclosures on September 18, 2020,  
20           according to the agreed Stipulation and Order Re Rule 26 Disclosures entered  
21           on August 20, 2020 (Dkt. 130.)
- 22           c. Plaintiffs have served Requests for Production of Documents on all  
23           Defendants. Defendants will provide their written responses and objections  
24           on the current due date (October 2); however, Defendants should not be  
25           required to incur the expense of reviewing and producing documents until the  
26           pleadings against them have been resolved, as set forth below.

27           By completing these preliminary steps, discovery will be able to rapidly proceed with respect  
28 to any claims and Defendants that remain after the Court rules on the pending motion, while not

1 imposing the extreme costs and expenses of wide ranging discovery on parties that may be dismissed  
2 from the case.

3       2. The scope of discovery after the Court resolves the pending motion should depend on  
4 how the Court rules:

5           a. If all Defendants are dismissed with leave to amend, then discovery should be  
6 stayed through the resolution of any motion to dismiss a Third Amended  
7 Complaint. Plaintiffs will at that point have failed twice to satisfy the *Twombly*  
8 standard, and there is no reason why they should be allowed to proceed with  
9 discovery when there is little reason to believe their claims would ever make it  
10 past the pleading stage.

11           b. If some Defendants are dismissed without prejudice, while the case proceeds  
12 against other Defendants, then:

13               i. For Defendants still in the case, party discovery will re-open on the  
14 Court's ruling on the motion to dismiss.

15               ii. For Defendants dismissed without prejudice, party discovery will not  
16 re-open as to them unless Plaintiffs file a Third Amended Complaint,  
17 and the Defendant either files an answer or the Court holds that the  
18 Plaintiffs have stated a claim against that Defendant. Based on their  
19 meet and confer with Plaintiffs, the Parties agree that if the Court  
20 dismisses some but not all of the Defendants, the dismissed Defendants  
21 would not be parties to the case and so Plaintiffs would have to use third-  
22 party subpoenas consistent with and pursuant to Fed. R. Civ. P. 45.  
23 Defendants agree that this Court would have jurisdiction to resolve any  
24 disputes related to the subpoenas.

1 Dated: August 28, 2020

COOLEY LLP  
MICHAEL A. ATTANASIO (151529)  
BEATRIZ MEJIA (190948)  
DAVID HOUSKA (295918)  
MAX SLADEK DE LA CAL (324961)

4 *s/ Beatriz Mejia*  
5 Beatriz Mejia (190948)

6 *Attorneys for Defendants Seaview*  
7 *Insurance Company and Two Jinn, Inc.*

8 Dated: August 28, 2020

9 By: */s/ Julie A. Gryce*

10 Julie A. Gryce (319530)  
11 DLA Piper LLP (US)  
12 401 B Street, Suite 1700  
13 San Diego, CA 92101-4297  
14 Telephone: (619) 699-2700  
15 Facsimile: (619) 699-2701  
16 julie.gryce@dlapiper.com

17 Michael P. Murphy (*pro hac vice*)  
18 DLA PIPER LLP (US)  
19 1251 Avenue of the Americas  
20 New York, NY 10020-1104  
21 Telephone: (212) 335-4500  
22 Facsimile: (212) 335-4501  
23 michael.murphy@dlapiper.com

24 John Hamill  
25 DLA Piper LLP (US)  
26 444 West Lake Street, Suite 900  
27 Chicago, IL 60606-0089  
28 Telephone: 312.368.7036  
Facsimile: 312.251.5809  
John.hamill@us.dlapiper.com

29 *Attorneys for Defendants Danielson*  
30 *National Insurance Company*

1 Dated: August 28, 2020

2 By: /s/ Blake Zollar

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Drew Koning (263082)  
Blake Zollar (268913)  
Shaun Paisley (244377)  
KONING ZOLLAR LLP  
2210 Encinitas Blvd., Suite S  
Encinitas, CA 92024  
Telephone: (858) 252-3234  
Facsimile: (858) 252-3238  
drew@kzllp.com  
blake@kzllp.com  
shaun@kzllp.com

*Attorneys for Defendant All-Pro Bail  
Bonds, Inc.*

Dated: August 28, 2020

By: /s/ Gerard G. Pecht

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Gerard G. Pecht (*pro hac vice*)  
NORTON ROSE FULBRIGHT US LLP  
1301 McKinney, Suite 5100  
Houston, Texas 77010  
Telephone: (713) 651-5151  
Facsimile: (713) 651-5246  
gerard.pecht@nortonrosefulbright.com

Joshua D. Lichtman (SBN 176143)  
NORTON ROSE FULBRIGHT US LLP  
555 South Flower Street, Forty-First Floor  
Los Angeles, California 90071  
Telephone: (213) 892-9200  
Facsimile: (213) 892-9494  
joshua.lichtman@nortonrosefulbright.com

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
*Attorneys for Defendant American  
Contractors Indemnity Company*

1 Dated: August 28, 2020

2 By: /s/ Anne K. Edwards

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Anne K. Edwards (110424)  
SMITH, GAMBRELL & RUSSELL, LLP  
444 South Flower Street, Suite 1700  
Los Angeles, CA 90071  
Telephone: (213) 358-7210  
Facsimile: (213) 358-7310  
aedwards@sgrlaw.com

*Attorneys for Defendant Williamsburg  
National Insurance Company*

Dated: August 28, 2020

By: /s/ Nicole S. Healy

Todd A. Roberts  
Nicole S. Healy  
Edwin B. Barnes  
ROPERS, MAJESKI, KOHN & BENTLEY

*Attorneys for Defendants American Bail  
Coalition, Inc. and William B. Carmichael*

Dated: August 28, 2020

By: /s/ David F. Hauge

David F. Hauge (128294)  
Todd H. Stitt (179694)  
Vincent S. Loh (238410)  
MICHELMAN & ROBINSON, LLP

*Attorneys for Defendants United States  
Fire Insurance Company, The North River  
Insurance Company, and Seneca  
Insurance Company*

1 Dated: August 28, 2020

2 By: /s/ Renee Choy Ohlendorf

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Renee Choy Ohlendorf  
Hinshaw & Culbertson LLP  
One California Street, 18th Floor  
San Francisco, CA 94111  
Main: (415) 362-6000  
Direct: (415) 393-0122  
RChoy@hinshawlaw.com

Christie A. Moore (*pro hac vice*)  
W. Scott Croft (*pro hac vice*)  
BINGHAM GREENEBAUM DOLL LLP  
101 S. Fifth Street  
3500 PNC Tower  
Louisville, KY 40202  
Telephone: 502.587.3758  
Facsimile: 502.540.2276  
cmoore@bgdlegal.com  
wcroft@bgdlegal.com

13 *Attorneys for Lexon Insurance Company*

14 Dated: August 28, 2020

15 By: /s/ Travis Wall

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Travis Wall (191662)  
Spencer Kook (205304)  
HINSHAW & CULBERTSON LLP  
One California Street, 18<sup>th</sup> Floor  
San Francisco, CA 94111  
Tel: (415) 362-6000  
twall@hinshawlaw.com

20 *Attorneys for Defendant Philadelphia*  
*Reinsurance Corporation*

1 Dated: August 28, 2020

2 By: /s/ Gregory S. Day

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Gregory S. Day  
LAW OFFICES OF GREGORY S. DAY  
120 Birmingham Drive, Suite 200  
Cardiff, CA 92007  
Telephone: (760) 436-2827  
attygsd@gmail.com

*Attorneys for Defendants California Bail  
Agents Association, Universal Fire &  
Insurance Company, Sun Surety Insurance  
Company*

Dated: August 28, 2020

By: /s/ Howard Holderness

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
John A. Sebastianelli (127859)  
Howard Holderness (169814)  
GREENBERG TRAURIG, LLP  
4 Embarcadero Ctr, Ste. 3000  
San Francisco, CA 94111-5983  
Telephone: (415) 655-1289  
Facsimile: (415) 358-4796  
sebastianellij@gtlaw.com  
holdernessh@gtlaw.com

*Attorneys for Defendants American Surety  
Company and Indiana Lumbermens  
Mutual Insurance Company*

Dated: August 28, 2020

By: /s/ Gary A. Nye

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Gary A. Nye (126104)  
ROXBOROUGH, POMERANCE, NYE &  
ADREANI, LLP

*Attorneys for Defendants Allegheny  
Casualty Company, Associated Bond and  
Insurance Agency, Inc., Bankers Insurance  
Company, Harco National Insurance  
Company, International Fidelity Insurance  
Company, Lexington National Insurance  
Corporation, and Jerry Watson*

1 Dated: August 28, 2020

2 By: /s/ Brendan Pegg

3 Brendan Pegg (174159)  
4 Lindsay Cooper-Greene, of Counsel  
5 (295180)  
6 LAW OFFICES OF BRENDAN PEGG  
7 201 E. Ojai Avenue #1505  
Ojai, CA93024  
Telephone: (805) 3024151  
Facsimile: (877) 719-7298  
brendan@bpegglaw.com

8 *Attorneys for Defendant Financial  
9 Casualty & Surety, Inc.*

10 Dated: August 28, 2020

11 By: /s/ Erik K. Swanholz

12 Erik K. Swanholz  
FOLEY & LARDNER  
13 555 South Flower St., 33rd Floor  
Los Angeles, CA 90071  
Telephone: (213) 972-4500  
Facsimile: (213) 486-0065

14 *Attorneys for Defendants Continental  
15 Heritage Insurance Company*

16 Dated: August 28, 2020

17 By: /s/ John M. Rorabaugh

18 John M. Rorabaugh (178366)

19 *Attorney for Defendant Golden State Bail  
20 Association*

21 Dated: August 28, 2020

22 By: /s/ Paul J. Riehle

23 Paul J. Riehle (115199)  
24 FAEGRE DRINKER BIDDLE & REATH LLP  
4 Embarcadero Center, 27th Floor  
San Francisco, California 94111  
Telephone: (415) 551-7521  
Facsimile: (415) 551- 7510  
paul.riehle@dbr.com

25 *Attorneys for Defendant Accredited Surety  
26 and Casualty Company, Inc.*

**ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

I, Beatriz Mejia, attest that concurrence in the filing of this document has been obtained from the other signatories. Executed on August 28, 2020, in San Francisco, California.

/s/ Beatriz Mejia

Beatrix Mejia